

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No.59209

Sherian Marie Radtke

64 Wagner Avenue

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on June 3, 2009, for a hearing on a citation for violations under the Baltimore County Code (BCC) section 35-2-301, 304, failure to obtain a valid permit for retaining wall and extension of shed on residential property known as 64 Wagner Avenue, 21221.

On May 19, 2009, pursuant to §3-6-205, Baltimore County Code, Code Enforcement Officer, issued a code enforcement citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$3,000.00 (three thousand dollars).

The following persons appeared for the Hearing and testified: the Respondent, Sherian M. Radtke joined by her husband, Frederick Radtke and, Gary Hucik, Baltimore County Building Inspections Inspector.

After proper consideration of all the evidence and testimony presented, the Hearing Officer finds:

A. A Correction Notice was issued on May 4, 2009 requesting a valid permit be obtained for an extension to a shed and for a retaining wall. This Citation was issued on May 19, 2009.

B. Inspector Hucik testified that Respondent's property is a waterfront lot. A steep flight of stairs is used to reach the water. Respondent built an extension on an existing shed without a building permit. Photographs in the file show a large shed with white siding and a corrugated metal roof, with a large section newly added on the rear. Inspector Hucik testified that no permit has been obtained and no inspections done.

C. Inspector Hucik testified that Respondent installed a new retaining wall at the rear of the property, above the water, without a permit or inspections. He further testified that for safety reasons, Baltimore County building code requires a permit and inspections for any retaining wall over three feet tall. Photographs in the file show a retaining wall faced with boards, with new fill dirt visible at the top.

D. Respondent Sherry Ann Radtke testified that the shed was repaired after a tree branch fell on it and damaged it. She further testified that the retaining wall was already in place and was only repaired. She testified that a neighbor's pool failed and caused the retaining wall to fall over, and that they merely pulled the wall back into place.

E. Even if Respondent's construction projects were made necessary by the need for repairs, County building permits and inspections are still required both for the enlarged shed and the reconstructed retaining wall. County building code requirements are in place for safety reasons and cannot be waived or evaded. An improperly constructed retaining wall is dangerous and in the location on Respondent's property, also threatens significant environmental damage due to its waterfront location. Also, the enlarged shed may violate zoning regulations and flood plain restrictions. Respondent must obtain a building permit and pass inspections, or remove the shed. Respondent must obtain a building permit for the retaining wall and obtain satisfactory inspection reports from a structural engineer or pass inspections.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$3,000.00 (three thousand dollars).

IT IS FURTHER ORDERED that if Respondent corrects the violations, as specified below, by July 15, 2009, the civil penalty will be REDUCED to \$500.00 (five hundred dollars).

IT IS FURTHER ORDERED that Respondent must obtain valid building permits and inspections for the enlarged shed by July 15, 2009; if Respondent fails to do so, the shed must be removed or Respondent will be subject to additional Citation and enforcement.

IT IS FURTHER ORDERED that Respondent must obtain valid building permits and inspections for the retaining wall by July 15, 2009; if Respondent fails to do so, Respondent will be subject to additional Citation and enforcement, AND the County may enter the property to correct the violation, including engaging a structural engineer to make inspection and making any repairs to the retaining wall that may be necessary, at Respondent's expense.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty as authorized above AND any expenses incurred by Baltimore County as authorized above shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 15th day of June 2009.

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.

MZF/jaf